

# SENATE BILL REPORT

## SB 6058

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As of February 27, 2007

**Title:** An act relating to the effect of settlement agreements.

**Brief Description:** Changing the effect of settlement agreements.

**Sponsors:** Senator Kline.

**Brief History:**

**Committee Activity:** Judiciary: 2/28/07.

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### SENATE COMMITTEE ON JUDICIARY

**Staff:** Dawn Noel (786-7472)

**Background:** When more than one person is found responsible for causing personal injury or property damage, Washington requires several liability, except under certain circumstances. Several liability means that each defendant is responsible for satisfying only that part of the monetary judgment corresponding to that particular defendant's percentage of fault.

In certain circumstances, Washington requires joint and several liability, meaning that each defendant is responsible for satisfying the entire judgment until it is satisfied, regardless of the proportion of the judgment found to correspond to a particular defendant's percentage of fault. If a defendant pays more than his or her proportionate share of the judgment, that defendant can bring a contribution claim against other defendants to recoup the excess part of the judgment paid.

Circumstances in which joint and several liability applies include the following cases: (1) when defendants were acting in concert, or when one defendant was acting as an agent or servant to another; (2) when the claimant suffering injury or property damage was not at fault; and (3) when issues such as hazardous waste disposal, interference with contractual or business relations, and certain product defects are involved.

Defendants can enter into settlement agreements (e.g., release, covenant not to sue, covenant not to enforce judgment, etc.) with a claimant to discharge the defendant from liability. A hearing must be held on the reasonableness of the amount to be paid under the agreement, and all parties are afforded an opportunity to present evidence on this issue.

If a court determines that the amount paid under the settlement was unreasonable, this determination will not affect the validity of the agreement between the releasing parties and parties released from liability, or the amount paid under the agreement.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Summary of Bill:** In circumstances in which joint and several liability applies, a settlement in the form of an agreement contingent on the outcome of the case (i.e., covenant judgment, covenant not to execute judgment, high-low trial agreement, etc.) cannot operate as a release, or prevent judgment from being entered against the settling defendant, unless so stated in the agreement.

A non-settling defendant who is found jointly and severally liable with a defendant who settled under such an agreement is entitled to an offset against the total judgment in an amount found by the judge to be reasonable.

If a court determines that the amount paid under the settlement was unreasonable, the determination may affect the validity of the agreement between the releasing parties and parties released from liability, or the amount paid under the agreement, because the former requirement stating otherwise is eliminated.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.